

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

DONALD M. LAINE,

Plaintiff,

and

**SECRETARY OF DEPARTMENT OF
HEALTH AND HUMAN SERVICES,
ADMIRAL RACHEL L. LEVINE,
UNITEDHEALTHCARE OF WISCONSIN,
INC. and ERIE INSURANCE COMPANY,**

Involuntary Plaintiffs,

v.

Case No. 22-CV-592

Case Code No. 30101

**STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY and CONNIE
SCHUELLER,**

Defendants.

**ANSWER, COUNTERCLAIM, CROSS-CLAIM AND AFFIRMATIVE DEFENSES OF
INVOLUNTARY PLAINTIFF, UNITEDHEALTHCARE OF WISCONSIN, INC.**

NOW COMES Involuntary Plaintiff, UnitedHealthcare of Wisconsin, Inc., by its attorneys, Weld Riley, S.C. by Matthew S. Mayer, and, as and for its answer and affirmative defenses to Plaintiff's Complaint, and its counterclaim and cross-claim, hereby alleges and shows to the Court as follows:

1. In answering Paragraphs 1 and 2 of the Complaint, admits the allegations contained therein.

2. In answering Paragraph 3 of the Complaint, admits in part and denies in part. Denies all allegations doubting or denying this answering party's subrogation rights and/or interests and puts Plaintiff to his strictest proof thereon; admits the remaining allegations contained therein.

3. In answering Paragraph 4 of the Complaint, is without knowledge or information sufficient to form a belief as to the truth of the allegations pertaining to any payments made to or on behalf of Plaintiff, as well as any subrogation rights and/or interests; admits the remaining allegations contained therein.

4. In answering Paragraphs 5 and 6 of the Complaint, admits the allegations contained therein.

5. In answering Paragraph 7 of the Complaint, realleges and incorporates as if fully set forth hereat Paragraphs 1 through the preceding paragraph of this answer.

6. In answering Paragraphs 8 through 12 of the Complaint, admits the allegations contained therein.

7. In answering Paragraph 13 of the Complaint, realleges and incorporates as if fully set forth hereat Paragraphs 1 through the preceding paragraph of this answer.

8. In answering Paragraphs 14 and 15 of the Complaint, admits the allegations contained therein.

9. In answering Paragraph 16 of the Complaint, realleges and incorporates as if fully set forth hereat Paragraphs 1 through the preceding paragraph of this answer.

10. In answering Paragraphs 17 and 18 of the Complaint, admits the allegations contained therein.

11. In answering Paragraph 19 of the Complaint, realleges and incorporates as if fully set forth hereat Paragraphs 1 through the preceding paragraph of this answer.

12. In answering Paragraph 20 of the Complaint, admits the allegations contained therein.

COUNTERCLAIM AND CROSS-CLAIM

NOW COMES Involuntary Plaintiff, UnitedHealthcare of Wisconsin, Inc., by its attorneys, Weld Riley, S.C. by Matthew S. Mayer, and, as and for its cross-claim against Plaintiff, Donald M. Laine, and its counterclaim against Defendants, State Farm Mutual Automobile Insurance Company and Connie Schueller, hereby alleges as follows:

1. Realleges and incorporates by reference herein the answer of Involuntary Plaintiff, UnitedHealthcare of Wisconsin, Inc.

2. At all times herein, UnitedHealthcare of Wisconsin, Inc., an affiliate of United HealthCare Insurance Company, contracted with the Centers for Medicare and Medicaid Services to administer Medicare benefits for Medicare beneficiaries of Medicare; and therefore, UnitedHealthcare of Wisconsin, Inc. is a Medicare Advantage Organization.

3. At all times herein, Plaintiff, Donald M. Laine, was covered by a federally-funded health plan (i.e., Medicare Advantage Plan) under which, UnitedHealthcare of Wisconsin, Inc. paid medical expenses on his behalf as a result of the injuries sustained in the accident referenced in the Complaint.

4. Medicare Advantage Plans, including the plan as administered by UnitedHealthcare of Wisconsin, Inc., are regulated by federal law.

5. As a result of the medical payments made, or to be made, by UnitedHealthcare of Wisconsin, Inc., it is entitled to reimbursement from any recovery Plaintiff, Donald M. Laine,

may receive as a result of the claims as set forth in the Complaint pursuant to 42 C.F.R. § 422.108(d).

6. UnitedHealthcare of Wisconsin, Inc. is entitled to subrogation against any Defendant found liable, or who has or will make payment directly or indirectly, for the injuries of Plaintiff, Donald M. Laine, by way of settlement, judgment or otherwise, pursuant to 42 C.F.R. § 422.108(d).

AFFIRMATIVE DEFENSES

As and for its Affirmative Defenses to Plaintiff's Complaint, Involuntary Plaintiff, UnitedHealthcare of Wisconsin, Inc., by its attorneys, Weld Riley, S.C., by Matthew S. Mayer, hereby alleges and shows to the Court as follows:

1. UnitedHealthcare of Wisconsin, Inc. exercise the same rights to recovery from a primary plan, entity or individual that the Secretary exercises under the Medicare Secondary Payer Law pursuant to 42 C.F.R. § 422.108(f).

2. In the event Plaintiff, Donald M. Laine, recovers payments from a primary plan and UnitedHealthcare of Wisconsin, Inc. is not reimbursed its lien, said Plaintiff and the primary plan are subject to liability under the Medicare Secondary Payer Act ("MSP"), 42 U.S.C. § 1395y(b)(2)(B)(iii).

WHEREFORE, Involuntary Plaintiff, UnitedHealthcare of Wisconsin, Inc., demands judgment as follows:

- A. On its current subrogation and/or reimbursement interest in the amount of \$388.36, plus any other medical payments made, or to be made, as well as interest;
- B. For the attorneys' fees, costs, and disbursements of this Involuntary Plaintiff; and
- C. For such other and further relief as the Court deems just and equitable.

DATED this 12th day of October 2022.

WELD RILEY, S.C.

Attorneys for Involuntary Plaintiff,
UnitedHealthcare of Wisconsin, Inc.

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BY: s/ Matthew S. Mayer

MATTHEW S. MAYER
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